
SENATE BILL No. 279

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-23-14-13; IC 35-38; IC 35-41-1-24.1.

Synopsis: Remote alcohol monitoring detention. Specifies that a remote alcohol monitoring program is a program in which a person is required to wear at all times a portable device capable of automatic or on demand testing, recording, and transmission of the person's alcohol consumption level. Authorizes a court to require a person to participate in a remote alcohol monitoring program as a condition of probation, community corrections, or participation in a reentry court program.

Effective: July 1, 2009.

Miller

January 7, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 279

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-23-14-13, AS ADDED BY P.L.60-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 13. (a) A reentry court established under this
4 chapter may require an individual to:

5 (1) undergo a chemical test or a series of chemical tests as
6 specified by the court; ~~and~~

7 (2) submit to random employment and residence checks; **and**

8 **(3) participate in a remote alcohol monitoring program (as**
9 **defined in IC 35-41-1-24.1).**

10 An individual who tests positive on a chemical test, or whose sample
11 is determined to have been adulterated, is liable for the costs of the
12 chemical test required under this section, regardless of whether the
13 costs are paid to the court or the laboratory. **An individual who**
14 **participates in a remote alcohol monitoring program may be**
15 **required to pay some or all of the expenses of the program.**

16 (b) A laboratory that performs a chemical test under this section
17 shall report the results of each test to the court.



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SECTION 2. IC 35-38-2-2.3, AS AMENDED BY P.L.3-2008,
SECTION 249, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 2.3. (a) As a condition of probation,
the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a
course of study or career and technical education that will equip
the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and
remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction,
recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family
responsibilities.

(5) Make restitution or reparation to the victim of the crime for
damage or injury that was sustained by the victim. When
restitution or reparation is a condition of probation, the court shall
fix the amount, which may not exceed an amount the person can
or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate
governmental entity to repay the full amount of public relief or
assistance wrongfully received, and make repayments according
to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon
unless granted written permission by the court or the person's
probation officer.

(9) Report to a probation officer at reasonable times as directed
by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at
reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted
permission to leave by the court or by the person's probation
officer.

(12) Answer all reasonable inquiries by the court or the person's
probation officer and promptly notify the court or probation
officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's
rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the
state department of health to detect and confirm the presence of

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the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(23) Participate in a remote alcohol monitoring program and,

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if ordered by the court, pay some or all of the expenses of the program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the

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1 department of correction;
2 to provide a DNA sample as a condition of probation.

3 SECTION 3. IC 35-38-2.6-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this
5 chapter, "community corrections program" means a program consisting
6 of residential and work release, electronic monitoring, **participation**
7 **in a remote alcohol monitoring program**, day treatment, or day
8 reporting that is:

9 (1) operated under a community corrections plan of a county and
10 funded at least in part by the state subsidy provided under
11 IC 11-12-2; or

12 (2) operated by or under contract with a court or county.

13 SECTION 4. IC 35-41-1-24.1 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2009]: **Sec. 24.1. "Remote alcohol monitoring**
16 **program" means a program in which a person is required to wear**
17 **at all times a portable device capable of automatic or on demand**
18 **testing, recording, and transmission of the person's alcohol**
19 **consumption level.**

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